

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7399

BILL NUMBER: HB 1298

NOTE PREPARED: Jan 10, 2013

BILL AMENDED:

SUBJECT: Circuit Court Clerk Administrative Matters.

FIRST AUTHOR: Rep. Mayfield

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill has the following provisions:

- A. *Attendance at Court Sessions* – It removes the requirement that the circuit court clerk (clerk) attend court sessions.
- B. *Official Custodian* – It provides that the clerk is the official custodian of all records and writings of the court. It requires the clerk, subject to the public records law, to provide copies of any records of the court in the clerk's possession to a party who requests the records.
- C. *Credit for Training Hours* – It permits an individual to receive credit for training hours completed after the individual is elected or selected to the office of circuit court clerk and before the individual begins serving in that office.
- D. *Payments for Certified Mail* – It provides that court costs and fees must be used to pay for the clerk's initial mailing by certified mail to each party required to receive the mailing at a single address. It requires that a person requesting a mailing by certified mail after the initial mailing pay the cost of the mailing.
- E. *Administrative Fee* – It authorizes the clerk to retain as an administrative fee an amount of up to \$3 whenever a person submits an amount that exceeds the amount the clerk is required to collect from the person, except for child support funds received by the clerk. It requires the clerk to deposit the amount retained as an administrative fee in the clerk's record perpetuation fund.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *Attendance at Court Sessions* – This provision removes outdated language when clerks would take records of court proceedings. It is now current practice for staff of the court to keep and maintain these records.

Payments for Certified Mail – If clerks are paying for additional certified mailings from public monies, then this provision would help the clerks avoid these added payments by charging the parties in the case.

Explanation of Local Revenues: *New Administrative Fee of \$3* – The additional fee of not more than \$3 could be charged and deposited into the Clerk's Record Perpetuation Fund when a person overpays any type of fee, fine or penalty other than child support payments. The clerk could collect the fee only at the request of the person who paid the fee and if the amount collected is at least \$3 more than the amount required. The revenue that this added fee could generate is not known.

Under current law, the clerks of the circuit court have no authority to keep any excess payments. The State Board of Accounts has advised clerks to deposit the excess payment in a trust ledger until the payment clears and then issue a refund. If the clerks retain the excess in the trust ledger for five years, they can forward the money to the Attorney General to deposit the money in the unclaimed property account, but only if they try to first repay the excess to the person who originally issued the check.

State Agencies Affected:

Local Agencies Affected: Clerks of the Circuit Court.

Information Sources:

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